

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA

DAWAUN LEE,)	
)	
Plaintiff,)	
vs.)	No. 1:06-cv-1610-TAB-RLY
)	
VERIZON WIRELESS,)	
)	
Defendant.)	

Entry Concerning Conference of July 11, 2007

A telephonic conference was conducted on July 11, 2007. The plaintiff participated in person and the defendant participated through its counsel of record.

On the basis of what was discussed and agreed, as well as on rulings made during the conference, the court issues this Entry pursuant to Rule 16(e) of the *Federal Rules of Civil Procedure*.

1. The plaintiff has made belated, disorganized, and inadequate responses to the discovery requests served on him by the defendant. The plaintiff has also failed to file preliminary witness and exhibit lists and a statement of special damages, and failed to serve a settlement demand, as required by the Case Management Plan, all as specifically directed in the Entry of June 7, 2007, following the conference of June 4, 2007.

2. Because of the foregoing, the defendant moved for dismissal of the action. Rule 16(f), Rule 41, and Rule 37(b)(2)(c) and (d) of the *Federal Rules of Civil Procedure* would justify dismissal in this case. The plaintiff's failure to participate in discovery and his failure to proceed as required by the CMP and the Order of June 7, 2007, are obstructing the orderly development of the case and causing needless expense and effort on the part of the defendant and the court. The court will not at this point, however, dismiss the action, but will impose other sanctions and direct other remedial measures so that the plaintiff will recognize the importance of complying with the court's orders and following the procedures which govern every party's conduct in a lawsuit. The motion to dismiss is **denied**.

3. The plaintiff is **sanctioned** for his failure to comply with the discovery process, for his failure to follow the requirements of the case management plan, and for his failure to comply with the court's orders in this action in the following respects:

- a. He shall **compensate counsel for the defendant the amount of \$325.00** for the unnecessary time spent in pursuing the question of discovery and in filing the motion to compel discovery on May 17, 2007. This sum shall be paid directly to counsel for the defendant within 30 calendar days from the issuance of this Entry. The plaintiff shall notify the court in writing when this payment has been made.
- b. The defendant's motion to compel discovery on May 17, 2007, is **granted**.
- c. The plaintiff shall **sign his interrogatory answers under oath**. This shall be done within 30 calendar days from the issuance of this Entry. The plaintiff shall notify the court when this payment has been made.

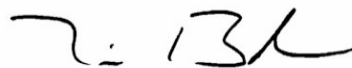
4. If the plaintiff fails to proceed as directed in paragraph 3 of this Entry, the court will, either on motion by the defendant or *sua sponte*, reconsider the denial of the motion to dismiss and may dismiss the action. The message to the plaintiff is this: the continued accommodation for his failure to following the rules and comply with court orders has now reached an end. His diligent and good faith participation in the case in the future will be expected.

5. The plaintiff has also failed to file a witness and exhibit list as ordered. This shall be done within 30 calendar days from the issuance of this Entry. An exhibit list is just that, a list. An exhibit list is not a collection of exhibits or documents, but a list of such things.

6. The plaintiff shall serve a settlement demand within 30 calendar days from the issuance of this Entry.

7. The collection of materials submitted on the eve of the conference was not properly filed. Those materials shall be promptly retrieved by the plaintiff, and if not retrieved from the clerk during business hours within 10 working days from the issuance of this Entry those materials will be discarded.

Dated: 08/10/2007



Tim A. Baker
United States Magistrate Judge
Southern District of Indiana

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